

Introduced by Senator Rainey

February 13, 1997

An act to amend Section 25503.15 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 359, as amended, Rainey. Alcoholic beverages: tied-house restrictions.

Existing provisions of the Alcoholic Beverage Control Act known as "tied-house" restrictions generally prohibit a winegrower from having an ownership interest in an on-sale alcoholic beverage license, with limited exceptions. Existing law includes an exception that permits a winegrower who manufactures, produces, bottles, processes, imports, or sells wine only to hold an ownership interest in any on-sale license, provided that the winegrower has entered into an undertaking approved by the Department of Alcoholic Beverage Control not to sell or furnish his or her wine to the holder of the license for as long as the winegrower's ownership interest in the license continues, or to enter into any collusive scheme to unfairly sell or promote the wine of another winegrower in his or her on-sale businesses in return for the same treatment in the on-sale businesses of the other winegrower.

This bill would revise that exception to include a winegrower who ~~wholesales wine~~ *has a wholesale license to sell wine only*.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.15 of the Business and
2 Professions Code is amended to read:
3 25503.15. (a) Notwithstanding any other provision of
4 this division, a winegrower who manufactures, produces,
5 ~~wholesales, bottles, processes, imports, or sells wine only,~~
6 *bottles, processes, imports, sells, or has a wholesale license*
7 *to sell wine only*, or any officer, director, or agent of that
8 person, may hold the ownership of any interest in any
9 on-sale license, or the business conducted under that
10 license, provided that the person or the officer, director,
11 or agent of that person, shall have entered into an
12 undertaking approved by the department stating both of
13 the following:
14 (1) That neither that person nor any officer, director,
15 or agent of that person shall sell or furnish to the holder
16 of the license any wine, or permit the sale pursuant to that
17 license of any wine, manufactured, produced,
18 wholesaled, bottled, processed, imported, or sold by that
19 person or that person's principal for as long as that
20 ownership continues.
21 (2) That neither that person nor any officer, director,
22 or agent of that person shall enter into any collusive
23 scheme whereby he or she unfairly sells or promotes, in
24 his or her on-sale businesses, the wine of another
25 winegrower who manufactures, produces, ~~wholesales,~~
26 ~~bottles, processes, imports, or sells wine only, in return for~~
27 *bottles, processes, imports, sells, or has a wholesale license*
28 *to sell wine only, in return for* his or her wine being
29 unfairly sold or promoted in the on-sale businesses of that
30 winegrower.
31 (b) Notwithstanding any other provision of this
32 division, any licensed winegrower or any officer, director,
33 or agent of that person, may hold, directly or indirectly,
34 the ownership of any interest in an on-sale license,
35 provided that each of the following conditions is met:

(1) The on-sale licensed premises are licensed as a bona fide public eating place as defined in Section 23038, or as a bona fide bed and breakfast inn as defined in Section 24045.11.

(2) The on-sale licensed premises purchases all alcoholic beverages sold and served at the on-sale licensed premises only from California wholesale licensees, unless one of the following conditions is met:

(A) The wine purchased is produced or bottled by, or produced and packaged for, the same licensed winegrower that holds an interest in the on-sale license.

(B) The wine is produced or bottled by, and is purchased from, a licensed winegrower who sells no more than 125,000 gallons of wine per year for distribution in this state under all brands or trade names owned by that winegrower.

(C) The wine is purchased by an on-sale licensee in whose on-sale license a licensed winegrower holds an interest, provided that the winegrower sells no more than 125,000 gallons of wine per year for distribution in this state under all brands or trade names owned by that winegrower.

(3) The licensed winegrower and any officer, director, or agent of that person, whether individually or in the aggregate, do not sell and serve the wine products produced or bottled under any brand or trade name owned by that winegrower through more than two on-sale licensed premises in which any of them holds an ownership interest.

(4) The number of wine items by brand offered for sale by the on-sale licensed premises that are produced, bottled, processed, imported, or sold by the licensed winegrower or by any person holding any interest in the winegrower does not exceed 15 percent of the total wine items by brand listed and offered for sale in the licensed bona fide public eating place selling and serving that wine. This paragraph does not apply to a bona fide bed and breakfast inn.

(c) The Legislature finds that it is necessary and proper to require a separation between manufacturing

1 interests, wholesale interests, and retail interests in the
2 production and distribution of alcoholic beverages in
3 order to prevent suppliers from dominating local markets
4 through vertical integration and to prevent excessive
5 sales of alcoholic beverages produced by overly
6 aggressive marketing techniques. The Legislature
7 further finds that the exceptions established by this
8 section to the general prohibition against tied interests
9 must be limited to their express terms so as not to
10 undermine the general prohibition, and intends that this
11 section be construed accordingly.

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